



**Using Rights to Do Wrong:  
Women's Reproductive and  
Domestic Labour at the Service of  
Nation-Building**

**Submission to the United Nations Working Group  
on Discrimination against Women in Law and in  
Practice**

## **Using Rights to Do Wrong: Women's Reproductive and Domestic Labour at the Service of Nation-Building**

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Justice for Iran Publications

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### **About Justice for Iran (JFI)**

**Established in July 2010, Justice for Iran (JFI) is a non-governmental, not-for-profit human rights organization. It aims to give a voice to the voiceless.**

**The mission of JFI is to address and eradicate the practice of impunity that empowers officials of the Islamic Republic of Iran to perpetrate widespread human right violations against their citizens, and to hold them accountable for their actions.**

**JFI unravels the truth and seeks justice for ethnic and religious minorities, LGBTs, women, and those who are persecuted because of their political beliefs. To achieve its mission, JFI researches, documents, validates, and litigates individual cases. It further raises public awareness and participates in human rights advocacy through the United Nations.**

## Introduction

Justice For Iran presents this submission to the United Nations Working Group on Discrimination Against Women in Law and in Practice, in response to the recent Call for Submissions issued during its 10<sup>th</sup> annual session in Geneva to bring about a new focus on the theme of discrimination against women in law and in practice in family and cultural life.

The submission provides an informative and descriptive overview of two recent highly controversial bills under consideration by the Islamic Republic of Iran, namely the *Comprehensive Population and Family Excellence Plan* (Bill 315), proposed on 18 June 2013, and the *Bill to Increase Birthrate and Prevent the Fall in Fertility Rate* (Bill 446), proposed on 20 April 2014. On 11 May 2014, Bill 446, introduced under a single urgency status to the Iranian Parliament to repeal the 1993 *Family Planning Act*, passed a first reading in Parliament with the support of 106 of the 207 MPs present.

This submission is also intended to present a critical perspective of the discriminatory provisions of Bills 315 and 446, which would enforce direct and de jure discrimination against women in various areas of their lives, such as marriage, childbearing and access to divorce by placing restrictions on the use of male and female contraceptive practices and women's access to reproductive health and rights and reinforcing the prohibition of abortion (part I). Bill 315 also places undue restrictions on women's employment and educational opportunities by affording relatively advantageous employment-related benefits encouraging women to leave the workplace in order to concentrate on their traditional maternity and caregiving roles at home (part II). Furthermore, Bill 315 provides married couples with a series of disguised welfare services such as gifts, loans, healthcare and child benefits that, although not discriminatory against women at first glance, clearly have the intended effect of impairing the recognition, enjoyment or exercise of women's right to access the occupation of their choice, right to equality in the workplace and right to freely and responsibly decide the number and age difference among their children (part III).

Women's reproductive and domestic work has long been a focal point of state regulation to support nation-building policies that almost invariably anchor women's social citizenship to their reproductive and caregiving functions. In the recent years, faced with an increasingly aging population and a steadily decreasing population growth rate,<sup>1</sup> senior Iranian officials have concluded that a shift in the country's population control policy is in order, progressively calling on women to leave the labour market and give birth to more children. The Iranian Supreme Leader, Ayatollah Ali Khamenei has addressed this issue on a number of occasions in the past few years. During a recent nationally televised speech delivered in July 2012 that the country's family planning policy made sense twenty years ago, "but its continuation in later years is wrong (...) Scientific and expert studies show that we will face an aging and shrinking population if the birth-control policy continues." It is the duty of officials, said Ayatollah Khamenei, to "build the culture in order to abandon the current practice of one child or two children [per family]. Imam Khomeini first mentioned the figure of 150 million-200 million. That is correct. Those are the figures we must achieve."<sup>2</sup>

In line with the recent directives of the Supreme Leader, in May 2012 the Supreme Council of the Cultural Revolution (hereinafter referred to as "SCCR")<sup>3</sup> adopted a resolution entitled "National strategies and actions to reverse the fall in fertility rate in accordance to Islamic teachings and national strategic requirements" (Resolution

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<sup>1</sup> The reasons behind the government's shift in its population control policy are multiple and not specifically the focus of this report. However, several commentators have emphasized Iran's push for regional power and leadership as the unique Shia government in the region. Recently, a Member of Parliament from the southwest province of Khuzestan, Ayatollah Heydari, voiced concerns about the "rate of population growth in Shia families being currently less than one percent while the rate in families of Sunni faith is four percent," and stated that reaching the six percent population growth rate endorsed by the Supreme Leader is the only way out of the current crisis. See Mehr News Agency, 8 June 2014: <http://www.mehrnews.com/detail/News/2306735> - Retrieved 1 July 2014.

<sup>2</sup> Fars News Agency, 25 July 2012, available at: <http://www.farsnews.com/newstext.php?nn=13910504000912> - Retrieved 1 July 2014;

<http://www.usatoday.com/news/world/story/2012-07-29/iran-baby-boom/56576830/1> - Retrieved 1 July 2014.

<sup>3</sup> The SCCR was established in 1980 following a decree by the Islamic Republic of Iran's founder, Ayatollah Ruhollah Khomeini, with the initial task of Islamising the universities and their curricula. It was later expanded and vested with the authority to debate, approve and ratify resolutions that bear the legal status of "governmental policy" and carry the force of law in practice although the SCCR remains a largely criticized unconstitutional body.

8423/91)<sup>4</sup> to substantiate the radical shift in population control policy. Briefly, in addition to calling for the abolition of birth control policies<sup>5</sup>, lowering the age of marriage and securing higher fertility rates mainly through educational initiatives and financial incentives, Resolution 8423/91 indicated the need to “[...] elaborate a lifestyle that would promote social, educational and employment activities of women in accordance with Islamic values and the best interest of the family for the purpose of complete fulfillment of the role of mother and wife.”<sup>6</sup>

The Resolution explicitly recommended women's employment opportunities be diversified and adjusted in accordance with their primary responsibilities in the family<sup>7</sup> and provided for a number of financial incentives and seemingly attractive social benefits such as lengthy maternity leave “for a total of ten years for all employees of the public and private sectors”<sup>8</sup>, “doubling child support benefits”<sup>9</sup> and family tax credits<sup>10</sup>, insurance coverage for “infertility treatment”<sup>11</sup> and full health coverage for “children of less than two years of age and their mothers”<sup>12</sup>, as well as the lump-sum child support calculated according to the age of the parents and the number of children in the household<sup>13</sup> and long-term child support loans to families with three to five children.<sup>14</sup>

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<sup>4</sup> Available at <http://www.iranculture.org/fa/simpleView.aspx?provID=1822> - Retrieved 1 July 2014.

<sup>5</sup> *Ibid*, article 2, para 2 and article 3, para 8.

<sup>6</sup> *Ibid*, article 2, para 3.

<sup>7</sup> *Ibid*, article 3, para 10.

<sup>8</sup> *Ibid*, article 3, para 13-5.

<sup>9</sup> *Ibid*, article 3, paras 13-14, 13-15.

<sup>10</sup> *Ibid*, article 3, para 13-16.

<sup>11</sup> *Ibid*, article 3, para 13-4.

<sup>12</sup> *Ibid*, article 3, para 13-1.

<sup>13</sup> *Ibid*, article 3, para 13-8.

<sup>14</sup> *Ibid*, article 3, para 13-21.

Despite early enforcement efforts by a number of governmental bodies<sup>15</sup>, the ambitious provisions of Resolution 8423/91 were not fully implemented due to “financial and legal obstacles.”<sup>16</sup> To ensure relative budget guarantee and appropriate enforcement supervision, in June 2013 the controversial Bill 315, was presented to the Islamic Consultative Assembly. Except for a few minor modifications, the Bill essentially replicated the provisions of Resolution 8423/91. This was followed by the adoption of Bill 446 in April 2014, which article 4 repeals the 1993 *Population and Family Planning Act*<sup>17</sup> and subsequent reforms in support of the family planning programme currently in place. Moreover, article 3 of the Bill reinstates the “population control policies” of Resolution 8423/91, providing that it is incumbent on the Executive to facilitate the full implementation of the Resolution.

In fact, over the past two years, the disputed legislative attempts by the Iranian government to encourage early marriage and childbearing among younger women, impose more strict control on abortion and use of contraceptives, and criminalize the delivery of abortion-related medical services, sterilization and other birth control operations, all of which are intended to dismantle Iran's successful family planning programme introduced in early 1990s. Shortly after the adoption of Resolution 8423/91, the Iranian Minister of Health and Medical Education, Marzieh Bahid Dastjerdi publicly stated that family planning funding was withdrawn and that the budget would be devoted to encouraging larger families. “The budget for the population control programme has been fully eliminated and such a project no longer exists in the health ministry. The policy of population control does not exist as it did previously.”<sup>18</sup>

In a speech marking Women's Day in Iran on 20 April 2014, President Rouhani criticized “those who feel the presence of women [in society] is a threat” and stressed that

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<sup>15</sup> Interview with Kobra Khazali, head of the Social and Cultural Committee of Women and Family of the SCCR: <http://zn.farhangoelem.ir/News/Pictorial/1909.aspx> (available in Farsi only) - Retrieved 1 July 2014.

<sup>16</sup> Interview with Jamshid Jafarpour, Member of Parliament: <http://ow.ly/x5aWD> (available in Farsi only) - Retrieved 1 July 2014.

<sup>17</sup> English translation available at <http://cyber.law.harvard.edu/population/policies/IRAN.htm> - Retrieved 1 July 2014.

<sup>18</sup> <http://www.telegraph.co.uk/news/worldnews/middleeast/iran/9446882/Iran-scraps-birth-control-programme-in-baby-boom-bid.html> - Retrieved 1 July 2014.

“women must enjoy equal opportunities, equal protection and equal social rights.” “We neither consider men as the first sex nor women as the second sex”, he added, “They are both equal in human dignity.”<sup>19</sup>

Despite these statements, no considerable improvements have been observed with respect to women's rights. Iranian law continues to entrench sexual and gender discrimination, giving women a subordinate status in law and in practice. The new administration has fully adopted the discriminatory population growth policies inherited from the predecessor government, consistently refusing to address or even take an open and transparent position in response to the unprecedented public outcry that followed the introduction of the Bills.

Drawing on its regional expertise, Justice For Iran focuses this submission on the current and potential negative impact of legislation and policy decisions arising from the Iranian government's new population control policy, which in many respects reinforce the discriminatory laws and policies already in place impairing women's right to employment and education, access to divorce, access to birth control, and access to information on reproductive health and safe abortion. It is submitted that the impugned Bills are explicitly and specifically geared towards defining and promoting the role of women as mothers and wives to the detriment of their professional advancement and commitments, and dramatically downplay their social role and presence.

It is apparent that the proposed Bills are part of a wider recent policy to encourage population growth in a departure from the current family planning legislation that has been in effect for the past two decades, and will inevitably have serious adverse impacts on women's rights.

This comes at a time when the government has recently implemented various measures imposing gender-based quotas and segregation on women in accessing higher education and barring them from entering certain academic, presumably “masculine”, high-income fields,<sup>20</sup> which raises serious concerns about the fact that these measures point to a coordinated effort to engineer women's position at home and in society. In this regard,

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<sup>19</sup> <http://www.president.ir/fa/76766> (available in Farsi only) - Retrieved 1 July 2014.

<sup>20</sup> See *Silenced, Expelled, Imprisoned: Repression of Students and Academics in Iran*, 2 June 2014, at pp. 24-25, available at <http://www.amnesty.org/en/library/info/MDE13/015/2014/en> - Retrieved 1 July 2014.

Justice For Iran is of the view that the main issues raised by the proposed legislation in question fall squarely within the Working Group's new stated thematic priority, namely that of "equality and non-discrimination in marriage, rights and responsibilities in the family and participation in all aspects of cultural life including arts, sports and cultural activities."

Before examining the discriminatory provisions of the disputed Bills and their current and potential effects on women's lives in further detail, a brief review of the history and evolution of Iran's current family planning programme is in order.

### **A BRIEF HISTORY OF POPULATION CONTROL POLICY AND FAMILY PLANNING IN IRAN**

Three distinct periods can be identified in the history of Iran's family planning programme, each marked by major policy changes in the government's stand on the need for population control and public health, the legitimacy of contraception and the role of women in society.

The imperial government of Iran first adopted a national family planning policy as part of its development plan, and launched an active family planning programme by the Ministry of health in 1967. By mid-1970s, family planning was included in the maternal and child health services nationwide and modern contraceptive methods were made available in most regions of the country. However, the programme lasted less than ten years and had limited achievements in terms of concrete results. The family planning programme was dismantled soon after the 1979 Islamic Revolution; the new government adopted social policies including allowances and food subsidies for larger families in order to encourage population growth, notably during the eight-year Iran-Iraq war, when having a larger population was considered an advantage for the country. By 1986, Iran's population increased from 34 million in 1976 to nearly 50 million and growing by nearly 4 percent per year.<sup>21</sup>

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<sup>21</sup> For a comprehensive account on Iran's history of family planning, see Akbar Aghajanian and Amir H. Merhyar, "Fertility, Contraceptive Use and Family Planning Program Activity in the Islamic Republic of Iran", *International Family Planning Perspectives*, June 1999, available online at <http://www.guttmacher.org/pubs/journals/2509899.html> - Retrieved 1 July 2014; Farzaneh Roudi-Fahimi ,



The current family planning programme was officially inaugurated in 1989. While focusing on preparing its first post-war development plan, the Iranian government found rapid population growth as a major obstacle to its ability to supply the population's basic needs and services, and decided to launch an internationally acclaimed family planning programme to effectively manage the rather serious overpopulation problem.<sup>22</sup>

Under the *Family Planning Bill*, the Ministry of Health and Medical Education was given almost unlimited resources to provide family planning services to all married couples, discourage pregnancy for women younger than 18 and older than 35, promote small families with two children as the norm, and help couples delay the first pregnancy, space out subsequent births and prevent unplanned pregnancies. All modern contraceptive methods were made available to married couples, free of charge, at public clinics and health centres. To rule out continuing controversies, the High Judicial Council declared, based on Ayatollah Khomeini's earlier *fatwa* according to which "contraceptive use was not inconsistent with Islamic tenets as long as it did not jeopardize the health of the couple and was used with the informed consent of the husband," that there was "no Islamic barrier to family planning" and, later, that sterilization of men and women was not against Islamic principles or existing laws of the country.<sup>23</sup>

With the ratification of the *Population and Family Planning Act* in 1993, most allowances to large families were cancelled and the provision of child benefits was limited to the first three children. In addition to the legislative provisions requiring the inclusion of the subject of population and family planning in all educational curricula, a number of subsequent regulations secured state-funded information programmes, a healthcare delivery network including in rural areas, and provided free family planning services and various modern contraceptive methods. The regulations also highlighted such goals

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"Iran's Family Planning: Responding to a Nation's Need", June 2002, Population Reference Bureau, available online at [http://www.prb.org/pdf/iransfamplanprog\\_eng.pdf](http://www.prb.org/pdf/iransfamplanprog_eng.pdf) - Retrieved 1 July 2014.

<sup>22</sup> Mehryar A., Tadjini F., Roudi F., and Aghajanian A., *Repression and Revival of the Family Planning Program and its Impact on the Fertility Levels and Demographic Transition in the Islamic Republic of Iran*, unpublished, 2004, Tehran Institute for Research on Planning and Development.

<sup>23</sup> Amir H. Mehryar, "Ideological Basis of Fertility Changes in Post-Revolutionary Iran: Shiite Teachings vs. Pragmatic Considerations", 2000, Tehran Institute for Research on Planning and Development

as reducing infant mortality, and extending social security and retirement benefits to all parents, so that they would not be motivated to have more children as a source of old age security and support.

The outcome of Iran's family planning programme in the following years was beyond any expectations. According to the United Nations Population Division, the rise in the population growth rate that occurred in the aftermath of the 1979 revolution (3.36 percent per year in 1975-1980 and 4.01 percent in 1980-1985) was followed by a sharp decline, reaching 1.41 percent in 1995, 1.25 percent in 2005 and 1.19 percent per year by 2010.<sup>24</sup>

While the Iranian government's recent pro-natalist initiatives could be regarded as a pragmatic response to an increasingly aging population, the impugned Bills contain untenable discriminatory provisions on grounds of sex, gender, and marital or parental status with serious and substantial adverse effects of women's rights in the fields of education, employment, economic, social and cultural life, and family-planning related healthcare, seriously compromising their formal and substantive equality, including their equality with men before the law in civil matters. Some of these provisions are outlined below.

## **THE DISCRIMINATORY PROVISIONS OF THE BILLS**

### ***I. Restrictions on Women's Access to Sexual and Reproductive Healthcare***

Both Bill 315 and Bill 446 contain a series of provisions that wholly compromise women's access to (information on) temporary or permanent methods of birth control and family planning-related healthcare services, legal and safe abortion, and post-abortion care. All are critical components of women's fundamental rights such as the rights to equality, non discrimination, women's right over their bodies and physical and personal integrity, sexual and reproductive health, autonomy, privacy, and the right to decide freely and responsibly of the number and spacing of one's children.

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<sup>24</sup> United Nations Department of Economic and Social Affairs, Population Division: "World Population Prospects: The 2012 Revision": [http://esa.un.org/unpd/wpp/unpp/panel\\_indicators.htm](http://esa.un.org/unpd/wpp/unpp/panel_indicators.htm) - Retrieved 1 July 2014.

Justice For Iran is concerned about a number of provisions in Bill 315 that seemingly seek to reduce maternal mortality (article 45) and improve child and maternal health including access to prenatal and post-natal care, obstetric services and information on reproductive health and safe childbirth (art. 42, 43, 44 and 46). Considering the comprehensive and effective family planning programme currently in place, these provisions cannot be perceived as advantageous to women as they unnecessarily encroach upon women's rights and privileges with the ultimate objective of "increasing the general fertility rate." To provide a few important illustrations, Bill 315 mandates the Ministry Health and Medical Education (hereinafter referred to as the "MHME") to put forth a "comprehensive programme to lower the rate of abortion" (art. 43, subpar. 2) and lower the average of time lapse between marriage and the first child's birth, and spacing of subsequent pregnancies (art. 43, subpar. 3), and to set up necessary procedures and provide quality care to pregnant women and infants "in proportion to their level of health issues and risk factors" in order to increase the fertility and birth rates (art. 44).

Bill 315 further mandates the MHME and the Ministry of Cooperatives, Labour and Social Welfare (hereinafter referred to as the "MCLSW") to "take any measures" and set up necessary mechanisms in order to promote and facilitate childbearing, by ensuring access to fertility screening during the first two years of marriage (art. 41), and to encourage natural delivery rather than unnecessary caesarean section, prevent infertility and avoid the use of contraceptive methods, in collaboration with the national media and other competent institutions (art. 42).

While the Bill itself does not introduce any specific measures other than the allocation of an insurance plan to encourage natural delivery, these provisions vaguely mandate public authorities to provide information and education programmes in order to increase "safe and natural childbirth" and prevent infertility and contraception. Considering the imprecise language of these provisions, Justice For Iran is highly concerned about how, and to which end, such vast delegations of power will be exercised by the responsible authorities.

Article 45 of Bill 315 confers to the MHME the authority to require autopsy, upon order sought from competent judicial authorities, in order to "clarify the cause of suspicious

death of the mother, the fetus, or the infant and in order to prevent similar incidents". This is while under Iranian criminal procedure law medico-legal autopsy is strictly performed for the investigation of suspicious deaths or crimes. Although this is not made explicit in Bill 315, in practice, this latter provision authorizes the MHME to conduct investigations of abortion cases, which is a criminal activity punishable by six months to one year of imprisonment and the payment of blood money (*diya*) under Iranian law.<sup>25</sup>

Considering the widespread use of contraceptive methods currently available and the relatively high rate of recourse to clandestine abortion among women in Iran<sup>26</sup>, any attempt to exclude family planning services from the constitutionally protected healthcare services<sup>27</sup> and submit the provision of abortion services to stricter regulation and control, will have the unavoidable effect of exposing women to black market contraceptives and the consequences of unwanted pregnancies, including unsafe underground abortions potentially performed in unsanitary settings and by unskilled providers.

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<sup>25</sup> Article 623 of the Islamic Penal Code of the Islamic Republic of Iran – Book Five, provides that « *Anyone who causes the miscarriage of a pregnant woman by giving her drugs or other means shall be sentenced to six months to one year of imprisonment, and if knowingly and deliberately guides a pregnant woman to use drugs or other means to abort her baby shall be sentenced to three to six months' imprisonment, unless it is proved that it was necessary to save the mother's life; in any case the diya shall be paid according to the relevant provisions* » and article 624 of the Islamic Penal Code provides that « *If a doctor or midwife or pharmacist or those who act as doctor or midwife or surgeon or pharmacist provide the tools for abortion or perform the abortion, they shall be sentenced to two to five years imprisonment, and the diya shall be paid according to the relevant provisions.* » The determination of the amount of the blood money depends on the life stages of the fetus, as provided for under article 716 of the Islamic Penal Code, as modified in December of 2013. Under this provision, at sixteen weeks – when “ensoulment” is believed to happen in Islamic belief – the applicable *diya* is equal to that of a living person if the fetus is male and three fourth of a full *diya* if the fetus is female. The limit of sixteen-week is also the latest possible time to have a legal abortion when such procedure is considered necessary to save the life of the mother, to prevent the birth of a seriously impaired child or to prevent stillbirths, as provided for under the 2004 *Therapeutic Abortion Act*.

<sup>26</sup> Despite the lack of official and accurate data on the abortion rate, studies show that Iran has one of the highest rates of abortion in the region. A recent study limited to married women has estimated the total abortion rate in the country to be 0.26 abortions per married woman and the annual general abortion rate to be 7.5 abortions per 1,000 married women aged 15-49. see Erfani and McQuillan, “*Rates of Induced Abortion in Iran: The Roles of Contraceptive Use and Religiosity*”, *Studies in Family Planning* 2008; 39[2]. 111-122.

<sup>27</sup> Article 29 of the Constitution of the Islamic Republic of Iran, referred to in article 43 of Bill 315, provides as follows: “ *Every person is entitled to the enjoyment of Social Security. This covers retirement, unemployment, old age, being laid off, being without a guardian, casual misfortune, accidents, and occurrences giving rise to the need for health services and medical care and treatment, through insurance etc. The Government is bound, in accordance with the laws, to use public revenues and the revenue drawn from individual contributions to provide the services and financial support mentioned above for every individual in the country.*”

This is while unsafe abortions are recognized by the World Health Organization as one of five major causes of maternal mortality globally, fourteen percent of maternal deaths from pregnancy-related causes being attributable to complications of unsafe abortion in countries where women are deprived of access to safe abortion by law or in practice.<sup>28</sup> Despite the lack of accurate and reliable data on induced abortion in countries such as Iran as a result of extensive criminalization, the latest statistics announced by the head of the Department of Population, Family and Schools of the Ministry of Health are shocking. According to official public statistics, over 220,000 cases of induced abortion were reported in 2012, only 100,000 of which were performed due to medical emergency and only less than 7,000 of which were performed with the required permit issued by the Iranian Legal Medicine Organization.<sup>29</sup> There is no doubt that the rate of illegal – and therefore unsafe and potentially life threatening – abortions is expected to be on the rise with the passage of the proposed legislation.

In fact, in February 2014, Dr. Mohammad Esmail Motlagh stated over 250,000 cases of illegal abortion were performed that year, a rate 40 times higher than the rate of legally performed abortions.<sup>30</sup> More recently, on 14 July 2014, Parliamentary Speaker, Ali Larijani, reiterated that over 120,000 illegal abortions are performed each year, expressing concern about the decreasing rate of birth and hoping “initiatives for budget reform” help overcome the current population crisis.<sup>31</sup>

These provisions are even more concerning when read together with Bill 446, which repeals the 1993 *Family Planning Act* in its entirety, essentially reinstating the “population control policies” of Resolution 8423/91. Section 1 of Bill 446 prohibits the

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<sup>28</sup> World Health Organization (WHO), 2011, “*Unsafe abortion: global and regional estimates of the incidence of unsafe abortion and associated mortality in 2008*”, 6<sup>th</sup> ed., Geneva: World Health Organization, Division of Reproductive Health, at pp. 47-48.

<sup>29</sup> See ISNA, Interview with Dr. Motlagh, head of the Department of Population, Family and Schools of the Ministry of Health, dated 9 June 2014, available at <http://isna.ir/fa/news/93031909690/120-%D9%87%D8%B2%D8%A7%D8%B1-%D8%B3%D9%82%D8%B7-%D8%BA%DB%8C%D8%B1%D9%82%D8%A7%D9%86%D9%88%D9%86%DB%8C-%D8%AF%D8%B1-%D8%B3%D8%A7%D9%84-91> (available in Farsi only) - Retrieved 1 July 2014.

<sup>30</sup> See Radio Zamaneh, 5 June 2014, at: <http://www.radiozamaneh.com/151156> (available in Farsi only) - Retrieved July 10, 2014.

<sup>31</sup> See Jame Jam, Ali Larijani speech at Tehran University of Medicine, July 14, 2014, at: <http://www.jamejonline.ir/newspreview/1567918013036165221> (available in Farsi only) - Retrieved July 14, 2014.

acquisition and the provision of abortion-related medical services, sterilization, and birth control operations such as tubectomy and vasectomy, in addition to any activities in view of “promoting” the above, all of which are punishable by two to five years imprisonment and the payment of blood money (*diya*) under article 624 of the Islamic Penal Code.<sup>32</sup> The only exception provided for in Bill 446 concerns cases where such interventions are “required” according to a regulation to be adopted by the MHME and the Ministry of Justice, within three months after the Act is in effect.

Article 1 of Bill 446 also vaguely prohibits “any activities” that may “promote family planning or discourage childbearing.” Justice For Iran is concerned by the broad wording of article 1 which, as drafted, suggests activities such as providing education or counseling related to family planning or advertising or recommending the use of contraceptive methods are also covered by this provision. Although blood money would not be involved in such cases, the imprisonment sentence would be equally applicable.

Bill 446 further mandates the Ministry of Health and Medical Education and the Ministry of Culture and Islamic Guidance (hereinafter referred to as the “MCIG”) to identify prohibited activities taking place in universities, hospitals, public and private health and medical centers in contravention to article 1, and refer those responsible to judicial authorities (article 2). This can encompass a wide range of individuals, including practitioners providing contraceptive methods, teachers providing sexual and reproductive education, pharmacists supplying contraceptives, employees of institutions that have traditionally provided family planning services, and human rights defenders advocating for sexual and reproductive health rights.

Although Bill 446 does not provide for any specific enforcement measures, it stipulates that regulations to enforce the provisions of articles 1 and 2 will be adopted by the MHME, the MCIG and the Ministry of Justice within a period of three months after the Act is in effect (article 2).

It is submitted that Bill 446 violates the obligations of Iran to respect, protect and fulfill the right to sexual and reproductive health, an integral component of the right to health under article 12 of the International Covenant on Economic, Social and Cultural Rights

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<sup>32</sup> Article 624 of the Islamic Penal Code of the Islamic Republic of Iran – Book Five, provides that « *If a doctor or midwife or pharmacist or those who act as doctor or midwife or surgeon or pharmacist provide the tools for abortion or perform the abortion, they shall be sentenced to two to five years imprisonment, and the diya shall be paid according to the relevant provisions.* »

(ICESCR), to which Iran is a party.<sup>33</sup> The United Nations Committee on Economic, Social and Cultural Rights has stated that obligations to respect the right to health include a State's obligation to "refrain from limiting access to contraceptives and other means of maintaining sexual and reproductive health, from censoring, withholding or internationally misrepresenting health-related information, including sexual education and information, as well as from preventing people's participation in health-related matters."<sup>34</sup>

By restricting women's access to contraception and family planning services and by reinforcing the prohibition of abortion, already rendered illegal under articles 622 to 624 of the Islamic Penal Code of 1996 on *ta'zirat* except in exceptional circumstances where abortion is required to save the life of the mother, to prevent the birth of a seriously impaired child or to prevent stillbirths, both Bill 315 and Bill 446 pose impermissible barriers to the realization of women' right to sexual and reproductive health. They also lead to violations of women's rights to life and to be free from cruel and inhuman treatment. Criminalization and restriction of induced abortion are understood to consistently generate poor physical health outcomes, resulting in preventable deaths, morbidity and ill-health, as well as negative mental health outcomes, not least because affected women are forced to continue unwanted or unplanned pregnancies or risk being thrust into the criminal justice system.<sup>35</sup> The Committee on the Rights of the Child, which monitors the implementation of the Convention on the Rights of the Child, to which Iran is also a party, has expressed concern about the impact of highly restrictive abortion laws on the right to health of adolescent girls.<sup>36</sup> The Committee against Torture

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<sup>33</sup> *Interim report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (A/66/254)*, 3 August 2011, at para 6.

<sup>34</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12 of the Covenant)*, 11 August 2000, E/C.12/2000/4, at para 34, available at: <http://www.refworld.org/docid/4538838d0.html> - Retrieved 1 July 2014.

<sup>35</sup> *Interim report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (A/66/254)*, 3 August 2011, at para 21.

<sup>36</sup> UN Committee on the Rights of the Child, *Concluding Observations: Chad (CRC/C/15/Add.107)*, 24 August 1999, at para 30; UN Committee on the Rights of the Child, *Concluding Observations: Chile (CRC/C/CHL/CO/3)*, 23 April 2007, at para 55; UN Committee on the Rights of the Child, *Concluding Observations: Uruguay (CRC/C/URY/CO/2)*, 8 June 2007, at para 51.

has further stated that laws severely restricting access to voluntary abortion put women's physical and mental health at grave risk and constitute cruel and inhuman treatment.<sup>37</sup>

We submit that these severe adverse outcomes will have a disproportionate effect on less economically advantaged women in Iran, as they will no longer have access to free contraceptives and will be more likely to seek clandestine and generally unsafe abortions in cases of unplanned or unwanted pregnancies.

## **II. Restrictions on Women's Employment and Education**

Discrimination against women in the area of employment is endemic in Iran, both in law and practice. The Resolution of SCCR on Employment Policies for Women, adopted in 1992, defines "the woman's role in the family as her main job" and provides that "the necessity of her active and influential engagement in the holy institution [of family]" underlies the policies of the Islamic Republic of Iran on women's employment. Several laws and governmental schemes specifically regulate women's employment, generally geared toward promoting their role as mothers and wives and downplaying their social and professional roles. Perhaps most notably, article 1117 of the Civil Code of Iran empowers any married man to "prevent his wife from occupations or technical work which is incompatible with the interests of the family or with his or his wife's dignity."<sup>38</sup>

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<sup>37</sup> UN Committee Against Torture, *Conclusions and Recommendations: Peru* (CAT/C/PER/CO/4), 25 July 2006, at para 23.

<sup>38</sup> For a comprehensive account of discriminatory labour laws against women, see "*Iran: Rising Poverty, Declining Labour Rights*", Fédération internationale des droits de l'homme (FIDH), June 2013, at pp. 21-27 (available at: [http://www.fidh.org/IMG/pdf/iran\\_report\\_en.pdf](http://www.fidh.org/IMG/pdf/iran_report_en.pdf) - Retrieved 1 July 2014). This is while the Constitution of the Islamic Republic restricts women's right to equality to the requirement of "conformity with Islamic criteria. The relevant provisions of the Constitution are reproduced below. Article 20 provides that "[a]ll citizens of the country, both men and women, equally enjoy the protection of the law and enjoy all human, political, economic, social, and cultural rights, in conformity with Islamic criteria." Article 21 provides that "[t]he government must ensure the rights of women in all respects, in conformity with Islamic criteria, and accomplish the following goals: (1) Create a favorable environment for the growth of woman's personality and the restoration of her rights, both the material and intellectual; (2) The protection of mothers, particularly during pregnancy and childbearing, and the protection of children without guardians; (3) Establishing competent courts to protect and preserve the family; (4) The provision of special insurance for widows, and aged women and women without support; (5) The awarding of guardianship of children to worthy mothers, in order to protect the interests of the children, in the absence of a legal guardian."



In addition, women generally receive jobs with lower pay rates and poor working conditions since there is no legislation in Iran to prohibit gender-based discrimination in the field of labour and employment and promote equal participation in the labour force. The Presidential Deputy for Women and Family Affairs announced in 2014 that the rate of women's participation in the labour force was only 11.3 percent in 2013 while the same rate for men was 62.1 percent. This amounts to a 1.3 percent decrease from the rate of women's labour force participation in 2012, which was reported as being 12.6 percent.<sup>39</sup> Also, according to the United Nations Statistics Division, the labour force participation of the country's adult female populations has dropped to 16.4 in 2011 from 19.4 in 2005, which is the highest rate achieved in the past decades.<sup>40</sup>

Bill 315 and Resolution 8423/91 pursue a similar objective: the radical shift in the government's population control policy means women are increasingly expected to leave the labour market to give birth to more children. This is explicitly reflected in a number of provisions of Bill 315, such as article 4, which states that the government's cultural entities, such as the Islamic Republic of Iran Broadcasting (hereinafter referred to as the "IRIB"), the Ministry of Culture and Islamic Guidance, and the Islamic Propagation Organization, have the mandate of developing and implementing programmes to promote marriage with a "focus on the pivotal role of the family by fully depicting roles [of family members] as spouse, father, mother and child in line with the comprehensive plan."<sup>41</sup>

To provide a few examples of the most significant discriminatory measures in the field of employment and education provided for in Bill 315, article 9 provides for a general employability "priority" in all governmental bodies and non-governmental entities to be given in sequence to men with children, married men without children and women with children, specifying that employment of qualified single candidates is permitted in the absence of qualified married applicants. A number of exceptions are made in

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<sup>39</sup> <http://www.farsnews.com/newstext.php?nn=13930201000719> (available in Farsi only) - Retrieved 1 July 2014.

<sup>40</sup> [http://data.un.org/CountryProfile.aspx?crName=Iran+\(Islamic+Republic+of\)](http://data.un.org/CountryProfile.aspx?crName=Iran+(Islamic+Republic+of)) - Retrieved 1 July 2014.

<sup>41</sup> Other references to the "central role of the family" are found throughout Bill 315 in articles 5, 17, 18, 21, 22, 38 and 39. Other references to the concept of motherhood as being women's foremost contribution to the society are found in articles 3 and 5.

subparagraph 9(1) with respect to specific professions marked by gender segregation in Iran, namely medicine, nursing and teaching. Once again, married women with children are formally given priority over married women without children and unmarried women.

In order to encourage private sector employers to implement the gender-based priority measures set out in article 9, subparagraph 9(2) provides private sector employers who adopt same in their establishment with a six percent reduction in insurance contributions they have to pay on their employees' earnings for a period of five years.

Article 10 of Bill 315 bans recruitment of single individuals as public and private school teachers and members of the academic boards of universities and higher education institutes. It provides a limited exception for situations when "there is no qualified married applicant available." Similarly, articles 16 and 18 of Bill 315 make marriage a precondition respectively for obtaining a licence from the Iranian Bar Association to practice family law (also see art. 19 and art. 20), and for officers of the specialized family unit of Police and Law Enforcement Forces.<sup>42</sup>

These provisions are in blatant disregard of Iran's international commitments against discrimination on grounds of gender, and marital and family status, including articles 6 and 7 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) which recognize the right to work and "the enjoyment of just and favorable conditions of work which ensure in particular ... equal opportunity for everyone to be promoted in [her] employment to an appropriate higher level, subject to no considerations other than those of seniority and competence."<sup>43</sup> They also infringe articles 3(9) and 28 of Iran's own Constitution, which require, respectively, "the abolition of all forms of undesirable discrimination and the provision of equitable opportunities for all" and respect for the right of everyone to "choose any occupation s/he wishes, if it is not

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<sup>42</sup> It bears noting that shortly after the introduction of Bill 315 to Parliament serious debates were raised within the government regarding the potential unconstitutionality of articles 9 and 10. In November 2013, Fatemeh Rahbar, head of Parliament's Women and Family Affairs Committee, stated that these articles infringe section 3, 20 and 28 of the Constitution : <http://farsnews.com/newstext.php?nn=13920906000831> (available in Farsi only) - Retrieved July 10, 2014.

<sup>43</sup> <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx> - Retrieved 1 July 2014.

contrary to Islam and public interests.”<sup>44</sup>

Various other provisions of Bill 315 tend to encourage women to abandon employment in order to give birth to children, provide childcare and take charge of housework, generally through the allocation of various forms of social benefits in favour of married women with children, including lengthy paid leave, reduction of working hours, beneficial insurance plans and possibility of early retirement. Other benefits are granted to married couples with children to encourage women to give birth to more children, including home loans and student residences (articles 8, 12, 13 and 14).

To cite a few of these provisions, Bill 315 ensures job-secure pregnancy and Maternity Leave (article 24, subpar. 3), providing for a nine to twelve-month Maternity Leave in both public and private sectors following the child's birth, notwithstanding additional Sick Leave if applicable (article 24, subpar. 1 and 4) – which is twenty seven times longer than the ten-day Paternity Leave under article 24, subpar. 5 – and a five-semester Student Leave of Absence for mothers of children under five years of age (article 25).

This is while according to a recent study conducted over a period of 18 months, 47,000 women out of 145,000 women who went on a six-month maternity leave, as provided for under the current legislation, were dismissed by their employers upon return to work.<sup>45</sup> It is expected that longer maternity leaves will not only jeopardize women's chances of career advancement, securing salary raises and accumulating seniority, but could also result in women being deprived of their jobs.

Pregnant or nurturing mothers can apply, upon completion of their Maternity Leave, for a maximum two-year Unpaid Maternity Leave or for part-time work pursuant to the *Part-Time Services of Ladies Act*<sup>46</sup>(art. 27, subpar. 3). The Bill also provides for an extra

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<sup>44</sup> Article 28 Constitution of the Islamic Republic of Iran recognizes the right to work and equal opportunity to work in the following terms: “*Every person is entitled to choose the employment he wishes, so long as it is not contrary to Islam or the public interest or the rights of others.*

*The Government is bound, with due regard for the needs of society for a variety of employment for all men, to create the possibility of employment, and equal opportunities for obtaining it.*”

<sup>45</sup> See Khabar Online, 13 April 2014, at: <http://khabaronline.ir/detail/349109/society/family> (available in Farsi only) - Retrieved July 10, 2014.

<sup>46</sup> Available at: <http://rc.majlis.ir/fa/law/show/90820>, with subsequent amendments at <http://rc.majlis.ir/fa/law/show/92837>, <http://rc.majlis.ir/fa/law/show/91056> and <http://rc.majlis.ir/fa/law/show/782104> - Retrieved 1 July 2014.

leave benefit (two hours leave for six hours of work) for mothers of children under five years of age, in addition to regular Annual Leave (art. 24, subpar. 2), in addition to the possibility of obtaining up to 60% reduction of working hours (art. 27, subpar. 1) or opting for video conferencing/online distance work for pregnant women or women with children under five years of age (art. 27), without possibility of parallel or part-time employment (art. 27, subpar. 2).

Moreover, article 28 provides that women with children are entitled to early retirement after a minimum of ten years of employment with any Insurance and Retirement Planning Fund, regardless of the required number of years of service under the applicable policies. Also, article 29 mandates the Ministry of Cooperatives to provide multi-layered social insurance to married women who choose to stay at home, taking into account their education and income level, employment status and number of children.

Although seemingly attractive for many women and families especially in a period of significant economic instability in the country, such measures simply reinforce the values of the male breadwinner model, render women less attractive employees for current and potential employers, leading to lower wages, reduced pensions and social benefits, and more limited career advancement potential. It is, therefore, submitted that the measures introduced under Bill 315 are in no way beneficial to women but will most likely lead to disproportionately adverse effects on women's right to equal opportunities in terms of employment and education, not to mention the substantive intersectional discrimination and deprivation of their rights that women of working class and women of lower income families may encounter, by reason of their disadvantaged socio-economic status.

### ***III. Other Discriminations on Prohibited Grounds of Marital and/or Parental Status of Women: Disguised Welfare Services***

While some welfare benefits afforded to childbearing and caregiving women, such as the possibility of early retirement, lengthy maternity leave, or part-time work are employment-related and demonstrably discriminatory, other provisions of Bill 315 do

not directly “discriminate” against women in general. Although it could be argued that a number among them formally discriminate against some women on prohibited grounds of marital and/or parental (family) status, but they are more fundamentally intended to encourage women to make more children. These include general provisions intended to increase birth/fertility rates, essentially providing for allocation by the government of nutrition baskets to three lowest population deciles of low income households with pregnant women or women with children under five years of age (art. 31); donation of gold coins to couples upon marriage and to mothers upon birth of their third child and on (art. 36); award of twice higher child benefits for third child, to be increased by 30% for the fourth child (art. 35 and 37); integration of additional child tax benefits (art. 32) and childcare interest-free loans with a ten-year repayment plan afforded to the third and fourth child in regions with fertility rates below the replacement level<sup>47</sup> (art. 33); free primary education for children as of five (instead of six) years old (art. 47(a)), allowance of special subsidies for daycares and pre-schooling of children of three to five years of age of the four lowest population deciles (art. 47(b)), and city-run public childcare facilities (art. 47(c)).

In addition, Bill 315 provides for healthcare insurance coverage for pregnant women, mothers of children under five years of age and the child, 50% to 100% of the applicable premium being covered by the government (art. 30) and full insurance coverage by the Insurance High Council for infertility therapy and counselling services for childless families (art. 40)

The Bill further provides for housing benefits for married couples with children, such as student residences and directly or indirectly state-funded housing (art. 8, subpar. 1 and 2), three times higher Student Loans and Home Loans for married students compared to non-married students (art. 12), and other loans through financial institutions to families with children (art. 13 and 14). Bill 315 also tends to promote the model of extended family i.e. households with grandparents and grandchildren, over that of modern nuclear family, by setting forth measures such as availing real estate property and three times higher loans to families living with grandparents, in localities other than large

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<sup>47</sup> The replacement level fertility or zero population growth is defined in the Bill as being equivalent to 2.1 [children per woman].

cities (art. 38) and giving the same advantages as those afforded under the Bill for each child to women with children who take care of one of their parents or one of their spouse's parents living in the same household with them (art. 39).

Although one could argue that these provisions do not appear to be discriminatory on paper, the objectives pursued by the implementation of the underlying policies, namely increasing women's fertility and childbearing, assigning women to reproductive, child raising and caregiving work for other members of the family, including but not only the children, while failing to address the potential role of men, to the detriment of women's productive role in society and in the labour market, clearly result in de facto discrimination against women in different areas of their lives. It also bears adding here that any optimistic reading of these provisions should be balanced against the Iranian government's history of poor or non-enforcement of its own welfare legislation.

It has been suggested that such discriminatory measures targeting at least half of the employable population of the country are also intended to help the government overcome high rates of unemployment because women may be inclined, or forced, to rely on the government's generosity rather than the product of their own implication in society. The gendered assignment of household chores, maternity, and care work, be it paid or unpaid, compulsory or voluntary, places women at a disadvantage in terms of their social and cultural participation in society.

In fact, while feminists have extensively argued that successful welfare policies should provide women with sufficient financial autonomy and affordable childcare as well as control over their reproduction methods and access to safe abortion, Bill 315 explicitly dismisses all of these important factors. By denying women the opportunities to increase their social roles and activities, the Iranian government selectively provides women with welfare aids that encourage staying at home and performing their traditional role as mothers, and caregivers.<sup>48</sup>

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<sup>48</sup> A series of interviews recently conducted by Radio Zamaneh with a number of working women suggests that as a result of the proposed legislation, part of which has already been implemented in the public sector through the adoption of Resolution 8423/91, women are increasingly motivated, and in some cases convinced by their husbands, to quit their jobs or apply for part-time employment: see Radio Zamaneh, 7 September 2014, at: <http://www.radiozamaneh.com/96704> (available in Farsi only) - Retrieved July 10, 2014.

#### **IV. Restrictions on Women's Access to Divorce as Violence against Women**

Several provisions of Bill 315 introduce measures tending to promote non-litigious resolution of family and more specifically divorce-related disputes. Article 17 provides that the State Welfare Organization, in collaboration with other competent organizations such as the Emergency and Social Assistance Services and *Sazman-e Basij-e Mostazafin* (Organization for Mobilization of the Destitute), as well as non-governmental family counselling centres, must offer couples counselling services, limit police/judiciary intervention in family disputes and work toward “de-judicialization of (...) family disputes and crises (...) and prevention of divorce”, without any regard to the appropriateness of such goals in context of family violence.

In addition, article 18 provides for the establishment of a specialized police unit within Police and Law Enforcement Forces, as well as the creation of adequate stations and facilities where “married, mature and well-trained” officers would be employed in order to ensure peaceful settlement of “aggravated crimes and domestic disputes [in matters relating to] women, youth and divorce.”

Considering the highly discriminatory character of Iranian laws governing marriage, divorce and child custody<sup>49</sup> and the total lack of domestic violence legislation in Iran<sup>50</sup> which expose women to a wide range of violence in their domestic lives without any legal protection, the above-stated provisions of Bill 315 put women at an even greater, distinct disadvantage in access to divorce and condemns them to violent, potentially life-threatening, marriages. In this context, it is fair to state that the anti-divorce provisions of Bill 315 infringe women's right to equality with men before the law in civil matters.

In addition, Bill 315 contains a number of provisions that seriously impair family courts judges' independence and impartiality and family lawyers' autonomy by imposing settlement and reconciliation in divorce cases to the detriment of women's rights. Article

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<sup>49</sup> See *Gender Discrimination at Its Worst: An Overview of the Discriminatory Laws of the Islamic Republic of Iran in Family Life*, January 2014, available at <http://justiceforiran.org/wp-content/uploads/2014/01/JFI-Submission-WGD-20-01-2014-.pdf> - Retrieved 1 July 2014.

<sup>50</sup> See *Disposable Victims: Laws and Practices on Gender-related Killings of Women and Girls in the Islamic Republic of Iran*, at p. 3, February 2014, available at <http://justice4iran.org/english/wp-content/uploads/2014/03/JFI-Submission-to-the-UNODC-Gender-related-Killings1.pdf> - Retrieved 1 July 2014.

19 of Bill 315 mandates the Iranian Bar Association and the Judiciary Centre of Legal Advisors to amend lawyers and counsel fees applicable in divorce cases under the Regulation and Tariff of Fees in a way to motivate lawyers to settle divorce cases. The Bill provides that lawyers will be entitled to receive full retainer for cases resulting in peace and reconciliation between spouses (art. 19, subpar. 1) and will be assessed, given credits and promoted accordingly based on the rate of cases of marital conflicts and divorce applications resulting in peace and reconciliation that they have been involved in as a legal representative (art. 19, subpar. 2). In addition, article 20 of the Bill proposes that in cases thus settled, the presiding judge also receive a performance bonus.

Another stated objective of Bill 315 that undoubtedly constitutes an infringement of women's right to equality in the current state of Iranian law – which fully endorses and provides no protection against early marriage of female children<sup>51</sup> – is that of lowering the age of marriage, as reflected in articles 1(2)<sup>52</sup>, 2, 6 and 7. It is worth noting that under article 1041 the Iranian Civil Code, the legal age of marriage for girls is 13 years of age, but a father or a paternal grandfather can legally marry a girl under the age of 13 to the person of their choosing with the permission of a court.<sup>53</sup>

Other provisions of Bill 315 charge the IRIB to promote marriage, childbearing and family commitment through its programmes by “discouraging divorce, addressing social impacts brought about by divorce to couples and children, and promoting a culture of strong spousal and family devotion and adherence to its sanctity, with the objective to achieve a fertility rate of 2.5 [children per woman] by 2025” (art. 21, see also art. 4 and

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<sup>51</sup> See *Early and Forced Marriages in the Islamic Republic of Iran*, December 2013, available at : <http://justice4iran.org/english/wp-content/uploads/2014/04/Early-and-Forced-Marriages-in-the-IRI.pdf> - Retrieved 1 July 2014.

<sup>52</sup> This provision states that the ideal age of marriage is 20 to 25 for men and 18 to 20 for women.

<sup>53</sup> According to a study carried out by Justice For Iran, official statistics released by the Iranian government between 2006 and 2011 reveal that the number of officially registered marriages involving girls under the age of 15 has increased from 33,383 in 2006 to 39,831 in 2011. The study further indicates that in 2012, 1,537 girls were married off below the age of 10 and 29,827 girls between the ages of 10 and 14. The real numbers are likely to be much higher, considering that only 24 provinces out of Iran's 32 provinces had provided statistics on the subject. With 1,411 cases of early and forced marriage, the Province of Ardebil in northwest Iran had reportedly the highest rate of marriage for girls below the age of 10 during this period: Justice For Iran, *Stolen Lives, Empty Classrooms: An Overview on Girl Marriages in the Islamic Republic of Iran*, October 2013, <http://justiceforiran.org/wp-content/uploads/2013/10/JFI-Girl-Marriage-in-Iran-EN.pdf> - Retrieved 1 July 2014.



42). Article 22 imposes similar obligations on the Ministry of Education, the Ministry of Science, Research and Technology (hereinafter referred to as the "MSRT"), and the MHME to adopt educational strategies, programmes and curricula towards achieving the same objectives.

Again, articles 21 and 22, when read together with other provisions of Bill 315 such as articles 2, 3, 4, 6 and 26, raise the question of how such measures and programmes would affect women's access to information on reproductive health, particularly those who are economically more vulnerable or those living in rural areas.

### **MONITORING OF PROSPECTIVE IMPACTS OF THE IMPLEMENTATION OF THE IMPUGNED BILLS**

Despite the lack of explicit monitoring and concrete assessment of the long-term effects of the discriminatory legislative choices found in Bill 315 and Bill 446 on women's rights at this early stage of implementation, and the continuing uncertainty regarding the full extent of the schemes and measures that are going to be put in place to achieve the stated objectives of the Bills, the negative impact of such discriminatory laws and policies is not incapable of prediction and should not be underestimated.

The population control budget has been gradually cut since the adoption of Resolution 8423/91, even before the impugned legislation is passed by Parliament. Government authorities have repeatedly stated that the budget allocated to the former birth control programme has been entirely withdrawn. On 11 June 2014, Dr. Mohammad Eslami, head of the Department of Family Planning of the Ministry of Health confirmed that this budget has been redirected to a different line of budget attributed to the "promotion of family health" and increasing the total fertility rate. He added that, henceforth, birth control methods are only available to women for whom pregnancy may be hazardous.<sup>54</sup> Also, on 22 April 2014, Mr Mohammad Esmaeil Motlagh, head of the Department of Population, Family and Schools of the Ministry of Health stated in an interview that "currently vasectomy and tubectomy surgeries are no longer performed in public health

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<sup>54</sup> See Young Journalists Club, 11 June 2014, at: <http://bit.ly/1sQPXKX> (available in Farsi only) - Retrieved 10 July 2014.

centres, unless medically indicated and approved by the specialized medical committee.”<sup>55</sup>

Following Resolution 8423/91, universities moved to drop courses on population control and family planning and replace them with a course on “Knowledge of the Family”, covering issues such as marriage, partnership, and child rearing. In November 2012, Dr. Mokhber Dezfouli, secretary of the SCCR, encouraged universities to review their curricula in accordance with the new population policies, reassuring them that there is an agreement on the issue between the SCCR and Parliament in this regard.<sup>56</sup>

In October 2013, Ali Sangi, the manager of the Department for Family's Health and Iran's Population within the Ministry of Health, publicly announced that the Ministry was no longer providing family planning classes for married couples and that its health clinics had ceased distribution of free pregnancy prevention kits in 2012.<sup>57</sup>

More recently, the Minister of Health, Dr. Seyed Hassan Hashemi, stated the necessity for the personnel of health centres and prevention clinics “that have been providing birth control services throughout the country during the past two decades” to receive adequate and consistent training regarding the new legislation.<sup>58</sup> It is important to note the language and structure of the Bills are such that provide a rather vague legal framework, vesting different governmental authorities, most notably the MHME and the MCLSW, with the power to put in place any measures and mechanisms in order to reach certain objectives. As a result, it remains unclear what schemes will be used by the delegate authorities and what results will be ultimately achieved.

Despite persisting confusion and uncertainty regarding the implementation of the Bills, Justice For Iran is actively pursuing the status and developments surrounding the impugned legislation. In fact, a number of testimonies either collected by or transmitted

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<sup>55</sup> See Aftab News, 22 April 2014, at: <http://bit.ly/1kxmQY2> (available in Farsi only) - Retrieved 10 July 2014.

<sup>56</sup> Hamshahri Online, 15 November 2012, at: <http://www.hamshahronline.ir/details/191354> (available in Farsi only) - Retrieved 10 July 2014.

<sup>57</sup> Fars News Agency, 14 October 2013, at: <http://www.farsnews.com/newstext.php?nn=13920722000771> (available in Farsi only) - Retrieved 10 July 2014.

<sup>58</sup> See Iran Physicians, 15 June 2014, at: <http://www.pezeshkan.org/?p=31958> (available in Farsi only) - Retrieved 10 July 2014.

to Justice For Iran indicate that the implementation of key policy changes have already been initiated throughout the country. Different sources confirm free family planning services, including free of charge distribution of condoms and contraceptive supplies, have stopped. A women's rights activist from Iran, Maryam Rahmani, confirmed that all free family planning services have gradually been suppressed during the past year and at most health centres and drugstores the supply of condoms, as the most accessible and reliable means of contraception, has been stopped. Rahmani added for most lower income families, especially for the working class, condoms currently available on the market are not affordable.<sup>59</sup>

Overall it seems that as a result of the uncertain state of the Bills and the partial implementation of the recent population growth policy in Resolution 8423/91 a considerable degree of discrepancy persists among suppliers of contraceptive products around the country. A number of witnesses contacted by Justice For Iran noted a significant decline in the quality of locally produced condoms and contraceptive pills during the past year while the price of imported products continues to rise. Other witnesses stated major drugstores in larger cities have eliminated entire sections of contraceptive products, including condoms.<sup>60</sup> Several other sources confirmed contraceptive pills have become exorbitantly expensive and difficult to procure.<sup>61</sup>

Some sources indicate the ban on permanent methods of contraception, such as vasectomy and tubectomy (tubal sterilization), made widely accessible to the public and

<sup>59</sup> See Rooz Online, 22 April 2014, at: <http://www.roozonline.com/persian/news/newsitem/article/-b284138413.html> (available in Farsi only) - Retrieved 10 July 2014.

<sup>60</sup> This is extremely alarming considering the increasingly high prevalence rate of HIV infection among women in the recent years. See The Guardian, 2 December 2013, at: <http://www.theguardian.com/world/2013/dec/02/iran-rise-hiv> - Retrieved 10 July 2014; Deutsche Welle Persian, 28 April 2013, at: <http://www.dw.de/%D8%A7%D9%81%D8%B2%D8%A7%DB%8C%D8%B4-%D8%B4%D9%85%D8%A7%D8%B1-%D8%B2%D9%86%D8%A7%D9%86-%D9%85%D8%A8%D8%AA%D9%84%D8%A7-%D8%A8%D9%87-%D8%A7%DB%8C%D8%AF%D8%B2-%D8%AF%D8%B1-%D8%A7%DB%8C%D8%B1%D8%A7%D9%86/a-16777312> (available in Farsi only) - Retrieved 10 July 2014.

<sup>61</sup> See also BBC Persian, 28 June 2014, at : [http://www.bbc.co.uk/persian/iran/2014/06/140628\\_mgh\\_hosseinkhah\\_iran\\_tubectomy.shtml](http://www.bbc.co.uk/persian/iran/2014/06/140628_mgh_hosseinkhah_iran_tubectomy.shtml) (available in Farsi only) - Retrieved 10 July 2014.

most popular among rural and low-income families, raise serious concerns.<sup>62</sup> In some cases, family planning centres located in remote rural areas confirmed having observed a decrease in unintended pregnancies. While such services are no longer available free of charge, their criminalization under the new legislation will make them inaccessible even in larger cities and private clinics.<sup>63</sup>

While the accumulation of these measures will inevitably result in more extensive recourse to abortion, Bill 315 and Bill 446 have erected additional barriers to women's access to abortion services, the consequences of which tend to be devastating for women.<sup>64</sup>

The changes to Iran's family planning programme following the adoption of Resolution 8423/91 and the introduction of the impugned Bills have produced a strong public reaction and are widely condemned by many involved in the protection of women's rights, including women's rights organizations and activists, NGOs, newspaper editorial writers and the general public. Since its earliest days, the government's radical shift in its population control policy was generally expected to have severe impacts on women's individual health conditions, as well as the education and employment achievements Iranian women have made during the past decades.

To state a few examples, in January 2014, 650 signatories of an open statement against Bill 315 asked Members of Parliament to remove the plan from their agenda, arguing the plan would place undue restrictions on women's educational and employment opportunities, increase gender discrimination in Iran, and constitute "a colossal regression for women" in law.<sup>65</sup> The statement emphasized "depriving women of

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<sup>62</sup> According to official statistics published in 2000 tubectomy stood as the second most popular means of contraception among Iranian women after the use of contraceptive pills: 16.3% of women who practiced family planning in urban areas had recourse to permanent tubal sterilization. This rate rose to 19.5% in rural areas.

<sup>63</sup> *Ibid.*

<sup>64</sup> See above, footnotes 29 and 30.

<sup>65</sup> "650 Activists Say New Population and Family Plan Would Stifle Women": <http://www.iranhumanrights.org/2014/01/women-population/>. The complete text of the statement is available at <http://we-change.org/spip.php?article10794> (in Farsi only) and <http://www.roozonline.com/persian/mihman/mihman-item/archive/2014/january/08/article/-4be824698c.html> - Retrieved 1 July 2014.

employment does not lead to their bearing more children and would only lead to an increase in both women's and men's presence in the unofficial and unsafe job market.”

On 8 March 2014, over 350 Iranian women's rights activists issued a statement cautioning against the increasingly oppressed status of women in the Iranian society. Among other issues, the signatories addressed the issue of Bill 315 and expressed their utmost concerns regarding the cancellation of already limited free birth control and permanent sterilization services, the increasing rate of unsafe abortions and spread of Sexually Transmitted Diseases such as AIDS and Hepatitis B among women and children, as a result of unjustified governmental policies.<sup>66</sup>

More recently, on 9 July 2014, a number of women's rights/civil rights organizations, activists and lawyers currently practicing inside the country issued a joint statement after Bill 446 passed a first reading in Parliament, condemning the “irresponsible, arbitrary and criminalizing approach” of the government which exposes families to destructive consequences of unintended and unavoidable pregnancies.<sup>67</sup>

Despite all these efforts, the government of Iran not only completely failed to consult women's rights experts and NGOs during the process of preparation of the Bills, but also has consistently failed to take any steps to meaningfully address the population's legitimate concerns with respect to the impugned Bills. Justice For Iran condemns the double-talk and lack of commitment on the part of the Iranian government. This includes president Rouhani's administration that has often provided more lip service in response to women's long-term struggle to assert and reclaim their rights as Iranian citizens, than any substantial and credible effort to further women's rights and gender justice.

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<sup>66</sup> “Statement of 350 Women's Rights Activists on the Occasion of International Women's day”: <http://we-change.org/spip.php?article10802> - Retrieved 1 July 2014.

<sup>67</sup> “Statement of Women's Organizations and Civil Rights Activists: Population Growth Policies Will Not Be More Effective With Criminalization”: <http://www.feministschool.com/spip.php?article7544> - Retrieved 10 July 2014.

## **RECOMMENDATIONS**

Justice For Iran urges the United Nations Working Group on Discrimination Against Women in Law and in Practice to bring the issues discussed in this submission to the attention of the Islamic Republic of Iran and call on it to:

### ***Right to Sexual and Reproductive Health***

- Withdraw in their entirety both Bill 446, which criminalizes the promotion, supply and use of tubectomy, vasectomy and other forms of contraception and voluntary sterilization for fertility control, and Bill 315, which replaces the family planning programme currently in place with a scheme of intrusive and discriminatory provisions;
- Decriminalize abortion and abortion-related services, and ensure that women have access to good quality health services, including safe abortion, and to emergency medical attention, when complications arise from abortions;
- Fund comprehensive family planning policies and programmes, providing full and complete access to a wide range of goods, services and information relating to contraceptive methods, including both pharmaceutical and surgical contraceptive methods;
- Refrain from censoring, withholding or intentionally misrepresenting health information, including sexual and reproductive health;
- Introduce comprehensive and evidence-based sexual and reproductive education modules in education curricula, including information regarding human rights, gender and sexuality;
- Undertake all efforts necessary to ensure women exercise their right to health and receive proper care, as well as the necessary information from medical and paramedical personnel, as part of basic respect for their human rights;

### ***Equality and Non-Discrimination in Employment and Education***

- Withdraw Bill 315 in its entirety, including provisions that either directly or indirectly discriminate against women in the area of employment on the basis of gender, marital status and parenthood;
- Ensure that men and women enjoy equal access to employment and that wives cannot be prevented from seeking employment by their husbands;

- Review as a matter of urgency all legislation in Iran in order to identify and remedy all laws that discriminate directly against women or have a discriminatory impact on women;
- Ensure that national employment strategies and policies do not perpetuate stereotypical notions of masculinity and femininity;
- Abolish all policies limiting women's access to higher education by imposing gender-based quotas and segregation on women or barring them from entering certain academic fields;

### ***Equal Right to Divorce***

- Ensure the laws provide for equal rights in law to men and women in initiating and obtaining a divorce and in divorce settlements;
- Withdraw Bill 315 in its entirety, including provisions that interfere with the independence and impartiality of judges to decide cases of divorce fairly and in accordance with the principle of equality between men and women, as enshrined in Article 3 of the International Covenant on Civil and Political Rights, to which Iran is a party;
- Withdraw Bill 315 in its entirety, including provisions that seek to demotivate family law lawyers to take up cases of women seeking divorce;
- Take all necessary measures to ensure women enter and remain in marriage on the basis of their free choice and with their full agreement, including by raising the age of marriage for girls to an age at which they can be expected to give free and informed consent, prohibiting the practice of polygamy, and giving men and women an equal right to divorce;

### ***Protection from Domestic Violence***

- Exercise due diligence to prevent, investigate and punish acts of all forms of violence against women, including in the home;
- Refrain from invoking custom, tradition, religion or culture to avoid the obligation to protect women from domestic violence and bring those responsible to justice;
- Enact and, where necessary, amend domestic legislation to criminalize domestic violence against women with appropriate and proportionate penalties; and,
- Develop and utilize legislative, educational, social and other measures aimed at prevention of violence against women, including the dissemination of information and the training of legal, judicial and health personnel.

## **ANNEX 1**

### **Title of the Bill:**

### ***Comprehensive Population and Family Excellence***

### **Registration No: 315**

#### **Chapter I – Definitions**

**Article 1-** Following are definitions of terms used within this Act:

##### **1- Objective of the Act**

Aimed at fertility rate of 2.5 [children per woman] for a quantitative population growth by 2025, as well as qualitative enhancement in population and its stabilization by 2051.

##### **2- Prime age of marriage**

Prime age of marriage is considered 20 to 25 for men and 18 to 22 for women.

##### **3- Target population for principles and provisions of this Act are as follows**

a: males and females who marry at prime age;

b: females who give birth at prime fertility age, and who observe optimum child spacing measures;

c: families who shoulder the responsibility of caring for ailing parents and share same household;

d: public and private institutions, organs and establishments that, in keeping with their responsibilities and tasks, can play a part in realization of this Act;

e: authoritative bodies, gifted individuals, and social organs that could impact the realization of this Act;

f: those impacted by divorce, family problems, and social disorder;

g: family unit playing a role in supporting mothers, children, children's marriages, and care of ailing parents;



h: quality of growth of children within families from inception;

i: males and females from inception to marriage and formation of own families.

#### **4- Replacement fertility level**

Level of fertility in which population remains stable from one generation to the next. Scientifically, this rate is estimated at minimum 2.1 [children per woman].

#### **5- Early childhood development**

Refers to protection and care provided to each child from inception up to the end of age eight, inclusive. Healthy early childhood dimensions includes spiritual, physical, emotional, behavioural, cognitive, linguistic, and social development.

#### **6- Total fertility rate**

Median rate of birth per woman throughout her lifetime in a given country.

#### **7- Healthy lifestyle**

An Islamic Iranian pattern based on guidance provided by the Supreme Leader implemented and propagated through reliable religious, cultural, and social institutions.

#### **8- Optimum population**

Optimum population is the combination of quantitative and qualitative indicators, quantity and rate of which is compatible with the level of needs and expectation through realization of potential life opportunities, both material and spiritual.

Quality of a well-balanced life includes healthcare, housing, welfare, education, training, and occupation in line with religious teachings and principles, to provide the ideal grounds for social maturity and spiritual advancement.

#### **9- Transferring the gifted gene**

Enhancement and transmission of gifted gene within the intergenerational process of country's population.

#### **10- Optimal fertility**

Optimal fertility age is contingent upon various socio-cultural and physiological factors such as health of mother and child, and minimum 3 to maximum 5 years

spacing between children. According to scientific sources, optimal fertility occurs between the ages of 18 to 35.

### **11- Comprehensive plan**

A plan comprised of four aspects: cultural, social, political and economic, and includes planning, objectives, actions, supervision, and sustainability.

Abbreviated references in this Act include:

1- Ministry of Health:

Ministry of Health, Treatment and Medical Education

2- Ministry of Sciences:

Ministry of Sciences, Research and Technology

3- Ministry of Culture:

Ministry of Culture and Islamic Guidance

4- Ministry of Cooperatives:

Ministry of Cooperatives, Labour and Social Welfare

## **Chapter II – Lowering Marriage Age**

**Article 2-** Ministry of Education and Training, in collaboration with seminaries, Ministries of Health, Cooperatives, and Culture, is to promote concepts and methods of building capabilities that lead to a healthy life style. Concepts such as personal development and sociability, individual expertise, proper choices of spouse, simple wedding, excellent family, training virtuous children and attention to up-bringing through proper religious, cultural, social, and educational training, should be taught, with the aim of promoting the culture of valuing marriage and taking responsibility for forming excellent families, by way of including principles of educational psychology in school curricula throughout the academic years and up to university level.

Note – Ministries of Education and Training, and Health, with the cooperation of parents' associations and teachers, are to incorporate behavioural abilities in personality and sexual developments during adolescence years and marriage through continuous and purposeful training of [children and] families in accordance with the Islamic Iranian culture and appropriate to the age of the students.

**Article 3-** Ministries of Health and Sciences, in line with the policies of the comprehensive plan, and in collaboration with seminaries, will design and develop academic courses in “healthy life style and family excellence” within six months after the adoption of this Act. [Courses] must include all aspects of health, development of abilities to choose appropriate spouse, role of a spouse, father, mother, child, and social responsibilities in formation and promotion of strong and excellent families. [Courses] to be ready for implementation one year after the adoption of this Act at the latest and mandatory in all academic disciplines.

**Article 4-** All cultural organizations and institutions, such as *Seda va Sima* [Islamic Republic of Iran Broadcasting], Ministry of Culture, and Islamic Propagation Organization, each based on its mandate, are to develop and implement purposeful and effective programs on healthy and simple life styles in accordance with Islamic standards. Programs aiming at promoting marriage must focus on the pivotal role of the family by fully depicting roles [of individuals] as a spouse, father, mother, and child in line with the comprehensive plan. With special regard for national and regional potentials and priorities, such programs must be developed and implemented upon the adoption of this Act.

Note 1 – In executing this article, social, academic, and occupational activities of women must be depicted within the above noted roles, and use of programs with damaging content to the notion of family must be avoided.

Note 2 – In executing this article, supervision over cyberspace content will be carried out by the Supreme Council of Cyberspace.

**Article 5-** Ministries of Health, Youth and Sports, and Cooperatives, in line with the policies of the comprehensive plan, each according to its mandate, are to provide programs and services with respect to health, general and specialized counseling, social and legal trainings—such as rights and responsibilities of spouses to one another, and personal empowerment in marriage with the aim of strengthening the foundation of family, and with special focus on “choosing appropriate spouse, family excellence, family and social health.”

Note – Related organizations are to allocate part of their resources towards the execution of this article for the target population.

**Article 6-** Ministries of Sciences and Health must act upon developing specialized courses and programs, such as psychology of family, family rights, child education, for various academic levels in line with policies and requirements of this Act, to be implemented by the following academic year upon the adoption of this Act.

Note – Educational and research institutions associated with seminaries that receive part of their budgets from the government and have activities related to the provisions of this Act must, when applicable, design and implement programs and carry out scientific studies and research in line with the requirements of this Act up to one year after its adoption.

**Article 7-** All research centres nationwide whose activities are related to the provisions of this Act, as well as the government, must, upon adoption of this Act, take necessary measures to allocate at least 15% of their annual budgets to scientific and research centres to conduct research related to family and population.

**Article 8-** The government is to allocate part of the budgets from Ministries of Sciences, Health, Roads and Urban Development, as well as that of all higher educational institutions, both public and private, to provide appropriate student housing for married male, and married female students with children, so that within three years from the adoption of this Act they [qualified applicants] would all be given residences.

Note 1 – Ministry of Roads and Urban Planning is to allocate portion of its budget to building and construction of the said [student] housing in order to meet the requirements of the State universities with respect to fulfilment of the provisions of this article within five years. During the first year of implementation of this Act, this goal will be realized through allocation of a portion of *Maskan-e Mehr's* budget, to be used in years after the adoption of the Act.

Note 2 – Banks and financial and credit institutions are to provide necessary low-interest loans for construction of self-sufficient student housings to private sector and non-governmental public cooperatives so as to allow the Ministries of Sciences and Health, and all higher education institutions, both public and private, to supervise assignment of affordable student housing. The government will have the duty to guarantee payment of the interest for such loans and record it in its fiscal budget. Execution of this note will be carried out through a directive issued within three months of the adoption of this Act by the Central Bank and approved by the High Commission for Money and Credit.

**Article 9-** Priority in employment in all governmental and non-governmental departments are to be given to men with children, married men without children, and women with children, respectively. Employment of qualified single persons, in the absence of qualified married applicants, is permitted.

Note 1 – Occupations such as physician, nurse, teacher, due to gender specific requirements, will put women in priority, as an exception to this article. Where there is need to consider women in such positions, priority should be given to women with children, and married women without children, respectively.

Note 2 – Where provisions of this article are observed in private sector, the employer will be granted a 6% exemption in its insurance for above-noted employment priorities, to be paid by the government from its budget pertaining to this Act. The government is to pay the noted insurance upon the adoption of this Act.

**Article 10-** Five years subsequent to the adoption of this Act, appointment of single persons as faculty members in all universities and higher education and research institutions, both public and private, and school teachers for all academic levels, is prohibited. Only in the absence of qualified married applicant, and subject to approval of the highest-ranking authority, appointment of unmarried persons is permitted.

Note – Unmarried gifted individuals are exceptions to this provision.

**Article 11-** The government is to provide residential subsidies for married military service conscripts, of graduate level or higher, during their period of service.

Note – Implementation of this article is entrusted to the Ministry of Defence and Support for the Armed Forces.

**Article 12-** Ministries of Sciences, Health, and higher educational institutions are to increase the ceiling for student relief loans, within six months of adopting this Act, for married students up to three times of that for single students, and to provide them with collateral mortgage loans, in addition to the above noted loans.

**Article 13-** The government, through banks and other related institutions, is to facilitate services and assist in providing funding for necessary and essential appliances for newlyweds up to 50% of cost.

**Article 14-** Ministry of Roads and Urban Planning is to provide for couples eligible in this plan who do not have a home, and who have not received prior government assistance for this reason, appropriate and affordable housing, to be rented or assigned, with priority given to families with children.

Note 1 – Municipalities are to impose minimum tariffs on building permits concerning the provisions of this article, and for construction of homes for married couples, based on rent or assignment of housing.

Note 2 – Banks and other financial and credit institutions are to provide the lowest interest rates possible for construction and rental of housings referred to in this article.

Note 3 – Concessions and benefits referred to in this article such as assistance, exemptions, and other services will increase in proportion to the number of children.

**Article 15-** All responsibilities and discretions pertaining to fund earmarked for the law of facilitating marriage will be transferred to Imam Reza (PBUH) *Mehr* Foundation.

### **Chapter III – Lowering Divorce Rate**

**Article 16-** The Bar Association and the Centre for Judiciary Advisors, in issuing license for lawyers who practice family law, must impose the following conditions: lawyers must be married; be at least 40 years of age; have [minimum] five years' experience in practicing [family] law, or other areas of the judiciary associated with family rights/law; or have had special judiciary-approved trainings as mediators for peace and reconciliation in divorce cases.

Note – The government and the judiciary are to submit, in addition to their assessment of family protection law, an annual report to the Majlis on judicial and social pathology in family cases.

**Article 17-** The Welfare Organization, in line with the work of the Social Emergency and Assistance Services, and in collaboration with the Ministry of Sports and Youth, and *Sazman-e Basij-e Mostazafin* [Mobilization of the Disinherited Organization], as well as other non-governmental counselling services, is to provide services to prevent social conflicts and to employ non-judicial methods to settle family disputes and problems. Such efforts must be aimed at preventing divorces while respecting legal rights of citizens and before involvement of the judiciary and/or the disciplinary forces. Where

the judiciary and/or the disciplinary forces are involved, according to the circumstances or demands, in collaboration with judiciary advisors and the court, counselling sessions and social services must be provided with the aim for peaceful and reconciliatory outcome.

Note – With respect to members of the military or the disciplinary force, the above services must be provided to the families through Social Services of the Armed Forces; and, with respect to students, the management of the academic institution in collaboration with the Education and Training Office Counselling Services are entrusted with the noted tasks.

**Article 18-** The disciplinary forces, in line with their duties to safeguard citizens in aggravated crimes, domestic disputes, [and matters relating to] women, youth, and divorce, are to employ officers in special forces and *Amaken* [Office of Public Places] who are married, mature, and well trained, and to adopt effective methods to assist in settling disputes in a peaceful manner with the aim of reconciliation and prevention of divorce, while respecting legal rights of the citizens.

**Article 19-** The Bar Association and the Centre for Judiciary Advisors must exert due diligence to approach divorce cases in a manner that would influence lawyers and judges to do their utmost to establish peace between couples instead of divorce.

Note 1 – Where family cases result in peace and reconciliation, the lawyer is entitled to receive full retainer.

Note 2 – Based on the number of cases resulting in peace and reconciliation, lawyers will be assessed, given credits, and promoted accordingly.

**Article 20-** The judiciary is to identify divorce cases that resolve in peaceful outcome, and reward the presiding judges with special bounces accordingly.

**Article 21-** In realization of the provisions of Article 4 of this Act, *Seda va Sima* is to produce and broadcast programs with contents to: encourage simple marriages, discourage divorce, address social impacts brought about by divorce to couples and children, and promote the culture of strong spousal and family devotion and adherence to its sanctity, with the aim to achieve fertility rate of 2.5 [children per woman] by 2025.

**Article 22-** Ministries of Education and Training, Health, and Sciences are to dedicate part of school and university curricula to establish among students a culture of preventing divorce and [awareness of] the social impacts of it, and to instill in them [students] norms of safeguarding the sanctity of marriage and strengthening the family unit. To achieve this goal, educational strategies and programs must be adopted to train teachers, coaches and university professors within two years after affirmation of this Act.

**Article 23-** Ministry of Health is to establish new laboratories and adopt advanced testing methods and techniques to determine addiction to narcotics, both synthetic and non-synthetic, and to increase the level of knowledge, quality of equipment, and expertise of its workers within one year of the adoption of this Act.

#### **Chapter IV – Childbirth**

**Article 24-** Maternity leave for employees in executive organizations and non-governmental sectors covered under the Labour Law is mandated at full 9 months from the time of birth with salary and benefits.

Note 1 – Women who require healthcare leave during the course of their pregnancy, endorsed by the monitoring physician, will be eligible for 9 months maternity leave, notwithstanding the period of healthcare leave.

Note 2 – Upon resumption of work duties, and up to baby's age at 12 months, mothers are entitled to two hours per every six hours of work, and from 12 months to five years, one hour per every six hours of work, of leave with salary, without affecting their vacation entitlement. Moreover, up to the baby's third birthday, [mothers] are exempt from working night shifts.

Note 3 – Mother's job security, i.e., reassignment to own position, or the equivalent, at the end of the mandated leave for childbirth and maternity must be maintained. During this period, switching their positions or altering their duties is prohibited, except at the employee's own request.

Note 4 – Maternity leave for birth of twins, or more, is mandated at 12 months with salary and benefits.

Note 5 – To provide support for mothers, and to share the responsibilities of caring for newborns, fathers are entitled to 10 days paternity leave with salary and benefits, without affecting their vacation entitlement. For fathers with twins, or more, this period is extended to one month.



Note 6 – Particulars of maternity leave in special circumstances, such as: stillbirth, baby's death during maternity period, adoption, childbirth by surrogate mother, artificial insemination (methods to cure sterility) will be provided within a by-law drafted by a special legislative task force to be approved by the Supreme Council for Health within six months after the adoption of this Act.

Note 7 – With regard to those covered by social assistance and welfare, payment of entitlements during maternity leave will be in accordance with the policies of related insurance; annual surplus required to match the benefits mentioned in this Act will be estimated by the Ministry of Cooperatives and paid to related funds.

**Article 25-** All universities and higher education institutions are to grant academic leave, with written requests from pregnant students or those with child(ren) under five years of age, and based on the recommendation of a specialist physician, up to five academic terms (one term before birth and four terms after) at all academic levels, without affecting their entitled academic deferral.

**Article 26-** The government is to provide special education in family issues, child education, women and gender-specific child healthcare, with consideration for particulars of a given population with respect to content and education levels. Special consideration must be given to provide extended education for women in remote areas with lower education levels.

**Article 27-** The government and public and private non-governmental sectors are to adopt effective methods to accommodate female employees who are either pregnant, or have small children, to work flexible hours, reduced hours, partially in-person presence, and other required geographical and social concessions for married or pregnant women, or mothers with children under the age of five, such as access to internet, participation in meetings through video conferencing, or working from home-offices to ensure job security.

Note 1 – Work hours for mothers with children under five years of age will be reduced by 10%, with additional increase to 20% per child, and up to a ceiling of 60%, for mothers who observe optimum child spacing.

Note 2 – During the period that mothers are entitled to the benefits described in the provisions of this article, they cannot be employed in other workplaces, neither full nor part-time.

Note 3 – Pregnant or nursing mothers, upon completion of their maternity leave, can, if they so request, be granted leave without pay, up to the child's third birthday, or alter their employment to part-time, pursuant to the law of women working part-time, or as supplement worker—as indicated in the note of the said law. In circumstances where such accommodation is not possible, the matter should be referred to the minister or the highest ranking position in the organization for settlement.

**Article 28-** All insurance and retirement planning departments must, upon willingness of working mothers with at least 10 years record of employment, grant their retirement with the number of years they have worked, regardless of required number of years of service indicated in the policies of the Civil Service Management Code, Social Welfare Organization, and other related offices, upon ratification of this Act.

Note 1 – Eligible mothers will be granted additional advantage of one pensionable year per child, and one and a half pensionable year from the third child on.

Note 2 – Fifty percent of the cost resulting from the implementation of this article in private sector will be provided and paid by the Ministry of Cooperatives.

Note 3 – Supports and encouragements specified in other laws remain effective, and this Act does not abrogate them.

**Article 29-** Ministry of Cooperatives is to make necessary arrangements, within three months of the adoption of this Act, to provide multi-layered social insurance [policies] for stay-at-home married women according to their level of education, status, income level—if they are employed, and number of children. The costs pertaining to this provision is to be budgeted annually.

**Article 30-** The government is to provide basic healthcare insurance for all mothers, who do not have health coverage, during the course of their pregnancies and thereafter, up to the child reaching age of five, and to cover 50% to 100% of their [mother and child] premium.

Note – Where child birth is on par with healthy fertility standards, the government will increase the percentage for every child thereafter.

**Article 31-** The government is to provide nutrition baskets free of charge on a monthly basis to include: protein, dairy, rice, and legumes equivalent of 1 to 2 million rials—based on the value of rial in 2013 (as base year)—for pregnant mothers and those with children under the age of five for at least 3 deciles of the low-income population and the needy determined and referred by medical centres.

**Article 32-** To uphold fairness in taxation while encouraging formation of families and increase in the fertility rate, the government is to adjust taxation on incomes based on changes in families, with children as dependants up to age of 20, and/or parents who are dependants of the family's breadwinner, through changing tax brackets from individual to family.

Note – The government is to adopt an executive by-law for the provisions of this article, to be drafted by the Ministry of Finance, within three months subsequent to adoption of this Act.

**Article 33-** The government is to provide “child” interest-free loans up to one hundred million rials with payback period of 10 years, without collateral, for the third and fourth child to families in areas with fertility rates below replacement level, who observe optimum fertility conditions. Loans to be provided through Correspondent banks.

**Article 34-** The government is to provide 30-year mortgages, with the lowest mortgage rate, and up to two times higher than maximum loans provided by *Bank-e Maskan* [Mortgage Bank], to families with three children or more (under 20), and where at least one of the couples is: university educated—bachelor degree or higher, gifted, an inventor, or with seminary education—level two or higher, who do not own a home, and who have not previously had mortgages to purchase a home. Alternatively, a residential parcel of land of 150 to 200 m<sup>2</sup> in cities or towns (excluding large cities), with the condition to build a house and reside therein for minimum 15 years.

Note 1 – The mortgage amount and size of residential parcel of land noted in this provision is applicable to [families with] a third child. Where there are four children, or more, the mortgage amount or size of land will increase incrementally, the rate of which is to be determined through the recommendation of the Ministry of Roads and Urban Planning and the Council of Ministers.

Note 2 – Applicants for land parcels can take advantage of this Act, considering they do not reside in large cities or provincial capitals.

**Article 35-** Upon adoption of this Act, the government is to increase payment for child benefits by two times for third child, with further increase of 30% from fourth child on.

Note – In families where the mother is the only person employed, she will be entitled to this benefit.

**Article 36-** The government is to gift one full *Bahar-e Azadi* coin to each of the newlyweds upon marriage, and one full *Bahar-e Azadi* coin to the mother for the birth of third child and on.

**Article 37-** The government is to execute the *Atiyeh-ye Mihar* plan upon the adoption of this Act, and to increase the portion for the third child and on by twenty percent per child.

**Article 38-** The government is to avail large parcels of land (min. 500 m) and three times higher loans to facilitate intergenerational homes (to be shared by grandparents, children, and grandchildren) in localities other than large cities.

**Article 39-** Women who take the responsibility of looking after any of the ailing parents (her own or her in-laws) at home will be granted benefits equal to one child [per ailing parent] as indicated in this Act.

Note – Where siblings share the responsibility of looking after their parents, benefits will be divided accordingly.

**Article 40-** Insurance High Council is to provide coverage for all costs pertaining to family counselling services and initial curable infertility treatments and thereafter, only where the family is childless, under the insurance plan.

## **Chapter V – Healthy Pregnancy**

**Article 41-** Ministries of Cooperatives and Health are to take necessary measures to provide all childless couples, who are in prime age of fertility, up to two years after marriage, with access to fertility screenings for best result.

**Article 42-** In an effort to increase healthy pregnancies and childbirth, the Ministry of Health and National Broadcasting, in collaboration with other related institutions, are to increase awareness and provide public education concerning: the basics of healthy pregnancies, safe and natural childbirth, avoidance of unnecessary caesarians, avoidance of contraceptives, genetic disorders, metabolic disorders, abnormalities, and so on.

Note – Ministries of Cooperatives and Health are to provide insurance and other necessary services to promote and facilitate natural birth, and discourage unnecessary caesarians.

**Article 43-** Ministry of Health, in line with the provisions of article 29 of the Constitution, and to ensure access to educational and medical services by the general public, including counselling, to increase the number of healthy pregnancies and promote planned and voluntary pregnancies, as well as greater access to special care in high-risk pregnancies with the aim to increase general fertility rate to reach a higher replacement level in areas identified as low replacement level.

Note 1 – Ministry of Health is to offer additional training and education to those providing services and education concerning health and fertility up to two years after the adoption of this Act.

Note 2 – Up to three months after the adoption of this Act, the Ministry of Health is to devise and execute a comprehensive program, subject to the approval of the Supreme Council for Health, to lower abortion rate.

Note 3 – Ministry of Health, in collaboration with other institutions and organizations, while providing standard care for all within the targeted population, including care in areas of fertility, pre-natal, healthy pregnancy and childbirth, is to encourage shortening the period between marriage and birth of the first child, and encourage optimum child spacing in subsequent pregnancies.

**Article 44-** To offer optimal care and safety for newborns and birth-giving mothers, the Ministry of Health is to upgrade, within five years from the adoption of this Act, all health clinics and centres, and hospitals, in such manner to enable them to provide appropriate services in accordance with the degree of health or severity of the danger or condition of every newborn and birth-giving mother.

**Article 45-** To determine the cause of unclear deaths in mothers, fetuses, or newborns, and in an effort to prevent similar incidents, the Ministry of Health, subject to the

authorization of the judiciary, is permitted to carry out autopsies at designated facilities under the supervision of the Coroner's Office.

**Article 46-** To elevate the quality of the population, within three months of the adoption of this Act, a National Steering Committee for Early Childhood Development (from inception up to age eight) will be formed to develop comprehensive programs and document national early childhood growth and development. The executive structure of [the steering committee] will function under the auspices of the Ministries of Health, Education and Training, and Cooperatives, under the supervision of the Supreme Council for Population.

**Article 47-** To provide children with early childhood development services and programs:

- a: Age of access to free education and training for children will be lowered from six to five
- b: Enrolment of children from 3 to 5 years of age of the four lowest population deciles in daycares and pre-schools will be granted subsidies from [the Ministry of] Education and Training. Amount of subsidies are to be determined by the National Steering Committee for Early Childhood Development and paid by the government.
- c: Municipalities are to establish, within two years of the adoption of this Act, childcare facilities with limited daily hours of operation based on standards determined by the said Steering Committee through 'houses of toys' equipped with educational softwares to enhance emotional, physical, social, and cognitive understanding of children.

**Article 48-** A Supreme Council for Population is to be formed to provide comprehensive legislation, guidance, interdepartmental coordination, and supervision of overall planning, initiatives, and assessments pertaining to the ministries, related executive bodies, public sector organs and national Basij for universal incorporation and implementation of general policies of the regime and provisions of this Act based on the notes of this article:

Note 1 – Permanent membership of the Council include:

- The President (head of Council)
- Representative of the Supreme Leader (if recommended)
- A deputy of the judiciary (recommended by the head of judiciary)

- Deputy of planning, and supervision of presidential guideline
- Secretary of the Supreme Council of Cultural Revolution
- Head of Expert Management Centre for Comprehensive Population (Council's Secretary)
- Ministries of Health, Sciences, Education and Training, Youth and Sports, Cooperatives, and Culture
- Head of Women and Family Affairs of the Presidential Office
- Head of *Seda va Sima* of the Islamic Republic of Iran [Broadcasting]
- Four representatives from the Islamic Consultative Council from Health and Healing, Culture, Social, and Legal and Judicial Commissions (as observers)
- Three experts in social affairs/analysis (recommended by the head of the centre and appointed by the President)

Note 2 – Secretariat:

In order for the Secretariat to carry out its duties, i.e., to follow-up with policies ratified by the Council, collect regular reports from the institutions and organs involved, and assess and evaluate the execution of this Act, a Central Office for Management of Comprehensive Population will be established at the Presidential Office. Head of this Centre will be appointed by the President. Duties and discretions of the Centre and the Council will not negate those of the executive organs who are tasked with specific mandates in this Act.

Note 3 – Task Forces:

The groupings of permanent and specialized task forces (such as Committees for Health and Welfare, Culture, Engagement and Efficiency, Women, Family and Youth, Logistics and Immigration, Environment, Housing, Development of Educational Systems, Information, Communication and Training, Census, and Early Childhood Development), tasks and duties, and the structural framework of the Central Office for Management of Comprehensive Population will be ratified by the Council.

Note 4 – Reporting and hierarchy:

All institutions and organs which have been officially tasked with a mandate with regard to this Act or other related policies, while responsible to report to the Islamic Consultative Council and other related authoritative bodies, must carry out their duties within the framework of the policies and decisions of the noted Council.

**Article 49-** To ensure efficient enforcement of this Act and to guarantee effective operation of the executive organs and assist related non-governmental institutions, the government is to allocate required credits in its future annual budgets. The cost for the

initial enforcement of this Act in 2014 will be provided from index 550000 Section 61 (aid to enforcement of policies concerning population) and other sources related to the mandates of this Act.

**Article 50-** Executive by-law of this Act is to be submitted by the head of Comprehensive Population Central Office, and, subject to approval of the Supreme Council for Population, to be endorsed by the Council of Ministers within three months after the adoption of this Act.



## **ANNEX 2**

### **Title of the Bill:**

#### ***Bill to Increase Birthrate and Prevent the Fall in Fertility Rate***

#### **Registration No: 446**

**Article 1** – All activities related to various methods of abortion and sterilization, such as vasectomy and tubectomy, as well as any other activities in view of promoting family planning or discouraging childbearing are prohibited and punishable under article 624 of the Islamic Penal Code (*Ta'zirat*), as it came into effect on 2/3/1275 [22 May 1996].

Note – A list of exceptional cases in which abortion or contraception is necessary shall be prepared by the Ministry of Health and Medical Education and the Minister of Justice within three months of the coming into effect of this Act and submitted to Cabinet for approval.

**Article 2** – The Ministry of Health and Medical Education and the Ministry of Culture and Islamic Guidance shall identify prohibited activities taking place in universities, hospitals, public and private health and medical centers in contravention of article 1 of the present Act, and refer contraveners to competent judicial authorities.

Note – The Executive Bylaw of the present Act shall be prepared by the Ministry of Health and Medical Education, the Ministry of Culture and Islamic Guidance and the Minister of Justice within three months of the coming into effect of this Act and submitted to Cabinet for approval.

**Article 3** – All departments and agencies of the Executive, as defined in Article 5 of the Public Administration Act are deemed to continue the implementation of mother and

children health and development services in accordance with the present Act, and to put in place all necessary policies in order to facilitate the implementation of Supreme Council of the Cultural Revolution's population control policies as adopted by Resolution on 22 May 2012 [Resolution 8423/91].

**Article 4** – The *Population and Family Planning Act* of 16 May 1993, as well as subsequent amendments, executive bylaws and related guidelines shall be repealed on the date of the coming into effect of the present Act.